

Environmental Protection Agency

§ 711.25

(D) The estimated percentage, rounded off to the closest 10%, of the submitter's site's total production volume of the reportable chemical substance associated with each consumer and commercial product category. Where a particular consumer and commercial product category accounts for less than 5% of the total production volume of a reportable chemical substance, the percentage must not be rounded off to 0% if the production volume attributable to that commercial and consumer product category is 25,000 lb (11,340 kg) or more during the reporting year. Instead, in such a case, submitters must report the percentage, rounded off to the closest 1%, of the submitter's site's total production volume of the reportable chemical substance associated with the particular consumer and commercial product category.

(E) Where the reportable chemical substance is used in consumer or commercial products, the estimated typical maximum concentration, measured by weight, of the chemical substance in each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section. For each chemical substance in each commercial and consumer product category reported under paragraph (b)(4)(ii)(A) of this section, submitters must select from among the ranges of concentrations listed in Table 5 in paragraph (b)(3)(viii) of this section and report the corresponding code (*i.e.*, M1 through M5).

(F) Where the reportable chemical substance is used in a commercial product, the submitter must estimate the number of commercial workers reasonably likely to be exposed to each reportable chemical substance. For each combination associated with each substance, the submitter must select from among the worker ranges listed in Table 4 in paragraph (b)(3)(vii) of this section and report the corresponding code (*i.e.*, W1 through W8).

§ 711.20 When to report.

All information reported to EPA in response to the requirements of this part must be submitted during an applicable submission period. The 2012 CDR submission period is from February 1, 2012 to August 13, 2012. Subse-

quent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2016. In each submission period, any person described in § 711.8 must report as described in this part.

[76 FR 54933, Sept. 6, 2011, as amended at 77 FR 36172, June 18, 2012]

§ 711.22 Duplicative reporting.

(a) *With regard to TSCA section 8(a) rules.* Any person subject to the requirements of this part who previously has complied with reporting requirements of a rule under TSCA section 8(a) by submitting the information described in § 711.15 for a chemical substance described in § 711.5 to EPA, and has done so within 1 year of the start of a submission period described in § 711.20, is not required to report again on the manufacture of that chemical substance at that site during that submission period.

(b) *With regard to importers.* This part requires that only one report be submitted on each import transaction involving a chemical substance described in § 711.5. When two or more persons are involved in a particular import transaction and each person meets the Agency's definition of "importer" as set forth in 40 CFR 704.3, they may determine among themselves who should submit the required report; if no report is submitted as required under this part, EPA will hold each such person liable for failure to report.

(c) *Toll manufacturers and persons contracting with a toll manufacturer.* This part requires that only one report per site be submitted on each chemical substance described in § 711.5. When a company contracts with a toll manufacturer to manufacture a chemical substance, and each party meets the Agency's definition of "manufacturer" as set forth in § 711.3, they may determine among themselves who should submit the required report for that site. However, both the contracting company and the toll manufacturer are liable if no report is made.

§ 711.25 Recordkeeping requirements.

Each person who is subject to the reporting requirements of this part must retain records that document any information reported to EPA. Records

relevant to reporting during a submission period must be retained for a period of 5 years beginning on the last day of the submission period. Submitters are encouraged to retain their records longer than 5 years to ensure that past records are available as a reference when new submissions are being generated.

§ 711.30 Confidentiality claims.

(a) *Confidentiality claims.* Any person submitting information under this part may assert a business confidentiality claim for the information at the time it is submitted. Any such confidentiality claims must be made at the time the information is submitted. Confidentiality claims cannot be made when a response is left blank or designated as not known or reasonably ascertainable. These claims will apply only to the information submitted with the claim. New confidentiality claims, if appropriate, must be asserted with regard to information submitted during a different submission period. Guidance for asserting confidentiality claims is provided in the instructions identified in § 711.35. Information claimed as confidential in accordance with this section will be treated and disclosed in accordance with the procedures in 40 CFR part 2.

(b) *Chemical identity.* A person may assert a claim of confidentiality for the chemical identity of a specific chemical substance only if the identity of that chemical substance is treated as confidential in the Master Inventory File as of the time the report is submitted for that chemical substance under this part. The following steps must be taken to assert a claim of confidentiality for the identity of a reportable chemical substance:

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official.

(i) What harmful effects to your competitive position, if any, or to your supplier's competitive position, do you think would result from the identity of the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the

causal relationship between the disclosure and the harmful effects?

(ii) How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(iii) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?

(iv) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?

(v) Is the fact that the chemical substance is being manufactured (including imported) for a commercial purpose available to the public, for example in technical journals, libraries, or State, local, or Federal agency public files?

(vi) What measures have been taken to prevent undesired disclosure of the fact that the chemical substance is being manufactured (including imported) for a commercial purpose?

(vii) To what extent has the fact that this chemical substance is manufactured (including imported) for commercial purposes been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

(viii) Does this particular chemical substance leave the site of manufacture (including import) in any form, *e.g.*, as product, effluent, emission? If so, what measures have been taken to guard against the discovery of its identity?

(ix) If the chemical substance leaves the site in a product that is available to the public or your competitors, can the chemical substance be identified by analysis of the product?

(x) For what purpose do you manufacture (including import) the chemical substance?

(xi) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If